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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,697

04/18/2007

Christian Gschwend

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6646

26986

7590

04/24/2008

MORRISS OBRYANT COMPAGNI, P.C.

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EXAMINER

DUCKWORTH, BRADLEY

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

04/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,697	Applicant(s) GSCHWEND, CHRISTIAN	
	Examiner BRADLEY H. DUCKWORTH	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/9/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second communication devices of claim 12 must be shown or the feature(s) canceled from the claim(s). Further it is unclear how figure 8 relates to the invention, as the description provided in the specification does not match the drawing, as certain elements(45) are not shown in the figure. Also it is unclear what is shown in figure 8 and how it relates to the holder shown in the remaining figures. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 2 and 3 are objected to because of the following informalities: The claims recite that either the cover or the layer has a coefficient of friction that is greater than that of the band, or steel. This is unclear because a coefficient of friction is not a property of a single material, but rather of the interaction of two materials and depends on factors such as surface roughness and temperature, and in the present case the second material is not mentioned. For the purposes of examination it was assumed that the layer and cover were for providing increased friction with a supporting surface, as this is what was meant to the best of the examiner's understanding of the present invention. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim recites a first and second communication device used as an alarm when they

are sufficiently spaced, this is not shown in the drawings, and are not adequately described in the specification to clearly show how the device is used or arranged.

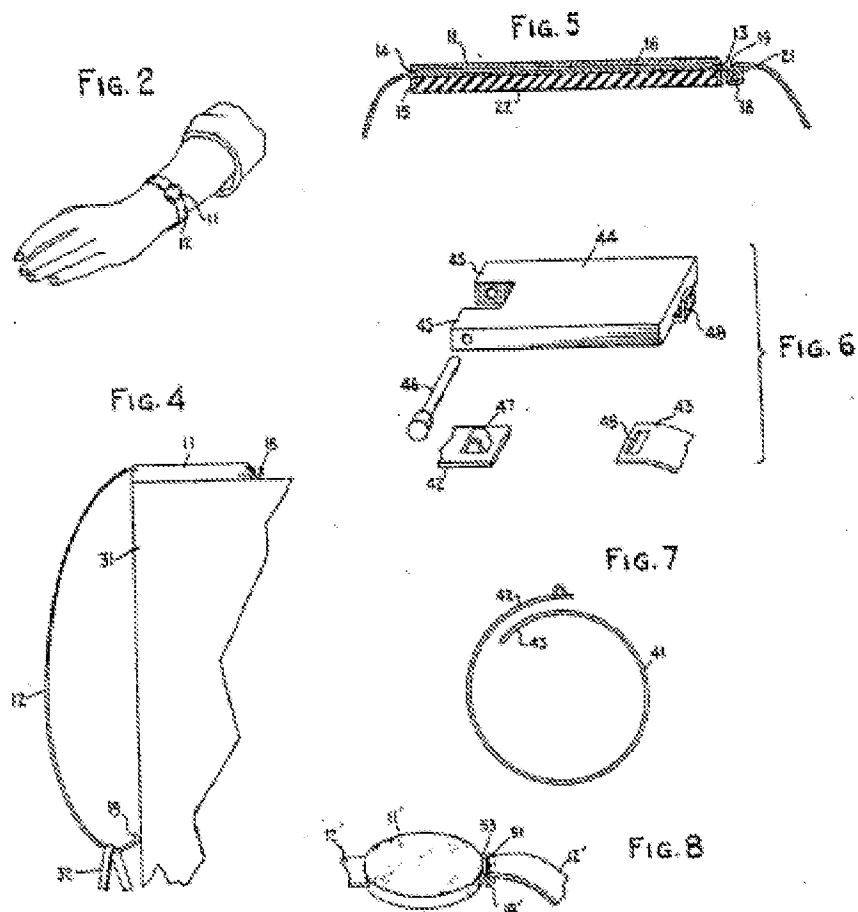
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Montero(FR1015197). Referring to figures 4-6, Montero discloses a bag holder comprising a closed bracelet member which can be used to display precious stones. The bracelet having an open U-shaped position(figure 4) with an elastically resilient band made from spring steel having a first limb(12) that ends in a first end region(44) and a second limb with an end portion(21) that curves back to the first limb, the limbs connected by an arch(bottom of loop), the first and second end regions being able to be spread apart in an open position(figure 4) and closed in a closed position(figure 5) where the second end region having a planar portion(generally 43) which overlaps a planar end portion of the first end region so that they are substantially parallel(see figure 5). The device further having a friction pad layer(22) formed on an inner side of the band.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

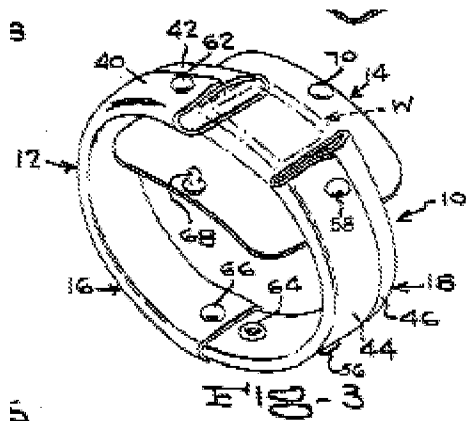
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero as applied to claim 1 above. Montero teaches a support as detailed above, however Montero does not disclose an alarm device on the support. The use of alarm devices to alert the owner of an object to potential thievery is well known, and it would have been obvious to one of ordinary skill in the art at the time of invention to place a communication device on the support, and another in a remote location to alert the owner of the support to potential unwanted removal of the support or items held therein, as this would be using known devices, such as remote alarms, for their known purpose. In regards to claim 14 Montero does not disclose what material is used for the friction pad(22) however it would have been obvious to one of ordinary skill in the art at the time of invention to make the pad out of rubber, as rubber is a well known material for providing high frictional forces when placed on a surface.

Claims 3-11 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero as applied to claim 1 above, and further in view of Cornett(US002998695). First it should be noted that claim 7 is a product by process claim, meaning the claim is directed to a product but claims the process of making said

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product. Only the final product of such a claim is given patentable weight in such a claim, not the process of making the product. Montero discloses a support in the form of a bracelet as detailed above, however Montero does not disclose the use of a cover in the form of a bag like member to encompass the band of the support. Cornett discloses a cover for a watch used to protect the enclosed watch from damage(C1 L9-15), comprising a bag like cover(see figure 3) that completely encompasses a watch, the cover having a closed end(at 66) and an open end having a bag opening(near 62) and a closure having a closure part, snap fasteners(68+70, which were assumed to be metal) that cover an end of the second end region of the second limb. First it would have been obvious to one of ordinary skill in the art at the time of invention to place such a cover on the bracelet of Montero to protect the bracelet from damage. While Cornett discloses that the cover can be made from plastics, fabric or flexible metal(C2 L47-50), it would have been obvious to one of ordinary skill in the art at the time of invention to either place decorations, such as gems, on the outside of the cover, or to form the inside and outside of the cover out of different materials, as either modification would not affect the functionality, but rather only the appearance of the device, making such a change a matter of simple design choice.



Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRADLEY H. DUCKWORTH whose telephone number is (571)272-2304. The examiner can normally be reached on m-f 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. H. D./
Examiner, Art Unit 3632

/RAMON O. RAMIREZ/
Primary Examiner, Art Unit 3632